

E-filed on: 8/27/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

TRACY WATSON, RENEE STALKER, PAM
STALKER as Guardian *Ad Litem* for O.S.,
S.W, and R.W., minors,

Plaintiffs,

v.

COUNTY OF SANTA CLARA, *et al.*,

Defendants.

No. C-06-04029 RMW

ORDER DENYING PLAINTIFFS' EX PARTE
ADMINISTRATIVE MOTION

[Re Docket No. 248]

Plaintiffs filed an ex parte administrative motion seeking additional time to file their papers in opposition to motions for summary judgment that have been filed by defendants Ramirez, Castaldi, Burgan Letona, Sparks and the County of Santa Clara¹ and also seek a convoluted order excusing them from briefing certain issues that they asserted in opposition to a motion brought by another group of defendants that will be heard on another date. Plaintiffs filed this motion just two days before their opposition papers are due.² The defendants affected by plaintiffs' motion oppose

¹ Plaintiffs do not seek an extension of time with regard to opposing the motion filed by defendant Tran, however. Motion at 2 and 7-8. The request is unusual since defendants Ramirez and Tran filed a single motion for summary judgment, not two separate motions.

² Plaintiffs filed their motion shortly after 1:00 p.m. on August 26, 2009. By 9:30 a.m. on August 27, however, plaintiffs' counsel's office had already called chambers to determine if an order had issued, and by 11:00 a.m., had called again to check on the status, this despite the fact that with the

1 the request. Plaintiffs have failed to establish good cause for their request, and accordingly the
2 motion is denied.

3 With regard to the extension of time, plaintiffs seek one additional court day so that their
4 opposition papers would be due on Monday August 31. A one-day extension would ordinarily not
5 appear unreasonable, in and of itself, but granting it under the present circumstances would unfairly
6 impact defendants' counsel, whose reply papers would either be due on Friday September 4 or
7 Tuesday September 8 (due to the Labor Day holiday). The former option would significantly limit
8 defendants' time in which to prepare reply briefs; the latter option would either require the disruption
9 or cancellation of holiday weekend plans or effectively shorten the time available to prepare reply
10 papers, or both. It would also shorten the time in which the court will have full briefing on the
11 motions.

12 Plaintiffs have also not demonstrated good cause for the extension. Plaintiffs' request recites
13 nearly verbatim the same reasons previously offered for the previous request for additional time in
14 which to file opposition papers to other pending motions, the "cutting and pasting" of which
15 plaintiffs candidly acknowledge. Motion at 4 n.3. No new reasons have been offered. Counsel's
16 difficulty in managing the workload of a complex case and a busy law practice does not justify the
17 imposition on defendants' counsel and the court that would result from granting plaintiffs' request.

18 With regard to the second aspect of plaintiffs' motion, plaintiffs seek an order excusing them
19 from briefing an issue raised by the pending motions, and which is also raised by other defendants in
20 other pending motions, relating to collateral estoppel and res judicata. The court appreciates
21 plaintiffs' concern that the resources of the parties and the court should not be unduly burdened by
22 needless repetition of arguments. Nevertheless, plaintiffs' proposal – that the court "agree to allow
23 the plaintiffs to avoid repeating the arguments and yet apply them in the MSJ's set for 9/18/09,
24 without waiving other 'fact' based objections to the defendants' collateral estoppel and/or res judicata

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26 court's electronic case filing system, counsel are automatically advised as soon as an order is posted.
27 The unnecessary calls to chambers this morning, like the repeated calls following plaintiffs' previous
28 last-minute request for additional time, unfairly divert the court's resources from other pressing
matters.

arguments" (Motion at 9) – is, as noted by defendants, vague and ambiguous. It also creates a significant risk of confusion and the possibility of collateral litigation over the meaning of the order after a dispute over its meaning arises.

Accordingly, plaintiffs' request is denied. Plaintiffs' opposition papers shall be filed and served on August 28, 2009 as scheduled.

DATED: 8/27/09



RONALD M. WHYTE
United States District Judge

1 Notice of this document has been electronically sent to:

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 10 Counsel are responsible for distributing copies of this document to co-counsel that have not
 11 registered for e-filing under the court's CM/ECF program.

12 **Dated:** 8/27/09 TER
 13 **Chambers of Judge Whyte**